

NORTH OGDEN PLANNING COMMISSION

MEETING MINUTES

April 16, 2014

The North Ogden Planning Commission convened in a regular meeting on April 16, 2014 at 6:31 pm in the North Ogden City Municipal Building, 505 E. 2600 N. North Ogden, Utah. Notice of time, place and agenda of the meeting was furnished to each member of the Planning Commission, posted on the bulletin board at the municipal office and posted to the Utah State Website on April 11, 2014. Notice of the annual meeting schedule was published in the Standard-Examiner on January 24, 2014.

COMMISSIONERS:

Eric Thomas	Chairman
Don Waite	Vice-Chairman
Scott Barker	Commissioner
Joan Brown	Commissioner
Blake Knight	Commissioner
Dee Russell	Commissioner
Phillip Swanson	Commissioner

STAFF:

Jon Call	City Attorney
Rob Scott	City Planner
Stacie Cain	Community Dev. Coord./Deputy City Recorder

VISITORS:

Mike Norseth	Glenn Donnelson	Carolyn Parker	Ashley Cason
John W Hansen	Christian George	Richard Parker	Brent Call
Lyman Barker	Lisa Roskelley	Rhonda Cannon	

REGULAR MEETING

Chairman Thomas called the meeting to order at 6:31 pm. Vice-Chairman Waite offered the invocation and led the audience in the Pledge of Allegiance.

CONSENT AGENDA

- 1. CONSIDERATION TO APPROVE THE MARCH 19, 2014 PLANNING COMMISSION MEETING MINUTES.**

2. CONSIDERATION TO APPROVE THE APRIL 2, 2014 PLANNING COMMISSION MEETING MINUTES.

Community Development Coordinator Cain noted Commissioner Brown recommended a few clarifications to the Planning Commission minutes documents and she has provided an amended version for Planning Commission.

Commissioner Brown made a motion to approve the consent agenda, approving the minutes as amended. Commissioner Russell seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Knight	yes
Commissioner Russell	yes
Commissioner Swanson	yes

The motion passed.

ACTIVE AGENDA

1. PUBLIC COMMENTS.

Mike Norseth, 1546 N. 775 E., asked if he will have an opportunity to address the Planning Commission during an item that has not been advertised as a public hearing. Chairman Thomas answered yes.

2. DISCUSSION AND/OR RECOMMENDATION ON ZONING FOR THE HANCOCK ANNEXATION, LOCATED AT APPROXIMATELY 1853 N WASHINGTON BLVD.

A staff memo from City Planner Scott stated when the Planning Commission is acting as a recommending body to the City Council, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes. The memo explained the applicant is requesting that the property located at 1850 North Washington Boulevard be annexed and be zoned Commercial Zone C-2. The property is on the west side of Washington

Boulevard. The property is currently being used as a vacant commercial building and single family residence. The Planning Commission approved the site plan for the commercial business on April 2, 2014 under authority of an Interlocal Agreement with Weber County. The North Ogden General Plan map calls for the property to be annexed into North Ogden City and the zoning along Washington Boulevard to be commercial. The single family residence will be nonconforming. The General Plan calls for "All development in the community should be built on land suitable for the intended use." Additionally, "New commercial and other business development will enhance the community when meeting the objective of the General Plan."

The Zoning and Land-Use Policy includes guidelines for how zoning changes should be considered:

General Guidelines

1. A definite edge should be established between types of uses to protect the integrity of each use.
 - Staff comment: The proposed use provides an appropriate edge between surrounding properties.
2. Zoning should reflect the existing use of property to the largest extent possible, unless the area is in transition.
 - Staff comment: The proposal will allow the existing commercial use to continue and the single family residence will be non-conforming. The single family residence will eventually transition to a commercial use.

Commercial Guidelines

11. Commercial zones should be located on collector and arterial streets, avoiding local streets which serve residential zones. Access to commercial and manufacturing zones should avoid local streets within residential zone.
 - Staff comment: The proposal is located on Washington Boulevard, an arterial street.
12. Existing businesses on collectors and arterials should be allowed to expand while providing an adequate buffer with adjacent residential zones.
 - Staff comment: The existing property is transitioning to a new commercial use and will retrain the existing buffers to adjoining uses.

The memo concluded by providing a summary of Planning Commission considerations as follows:

- Is the proposal consistent with the General Plan?
- How does the proposal relate to the Zoning and Land-Use Policy for evaluating zoning requests?
- Does the proposal meet the North Ogden Zoning ordinance standards?

Staff recommends that the City Council annex and rezone this property to C-2. The Planning Commission can find that the application is consistent with the North Ogden General Plan, i.e., the property is within the city annexation policy and C-2 zoning is appropriate.

Mr. Scott summarized his staff memo.

Vice-Chairman Waite stated it appears the boundaries of the property go through several existing buildings on the property. Mr. Scott stated some older buildings on the property do straddle property lines, but those buildings are vacant at this time. He stated he spoke at length with the property owner about annexing the entire property at this time, but they chose to only annex the small piece that is before the Planning Commission for consideration.

Commissioner Brown stated that she attended a recent City Council meeting and she thought that body already approved the annexation and zoning of the property. Mr. Scott stated the City Council simply completed the first step in the annexation process, which is to accept an annexation petition for certification and consideration. It is now required that the Planning Commission provide the City Council with a recommendation.

Chairman Thomas asked if the residential building on the property will be used as part of the business that will be located in the commercial building. Mr. Scott noted the owner of the property still resides in the home, though all other buildings on the property are vacant.

Commissioner Swanson asked if there are any legal issues associated with someone living in a non-conforming residential building on a commercial property. City Attorney Call answered no; there are some financial implications for the property owner, but those are not of the City's concern.

Mr. Scott noted the City's General Plan calls for the subject property to be zoned commercial. Chairman Thomas inquired as to the depth of the commercial zoning called for in the General Plan; he stated that at one time the General Plan dictated the depth would be 300 feet. Mr. Call noted the map identifies the depth as 132 feet from the street frontage.

Chairman Thomas asked if any person in attendance wished to make a comment regarding this agenda item. There were no residents appearing to be heard.

Commissioner Brown made a motion to forward a positive recommendation to the City Council regarding the zoning for the Hancock annexation, located at approximately 1853 N. Washington Boulevard. Commissioner Swanson seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Knight	yes
Commissioner Russell	yes
Commissioner Swanson	yes

The motion passed.

3. DISCUSSION AND/OR RECOMMENDATION ON ZONING FOR THE LYMAN C. AND LONNIE C. BARKER ANNEXATION, LOCATED AT APPROXIMATELY 850 E 2100 N.

A staff memo from City Planner Scott stated when the Planning Commission is acting as a recommending body to the City Council, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes. The applicant is requesting that the property located at approximately 2100 North and 800 East be annexed and be zoned Single Family Residential R-1-12.5. The property is being annexed to be included with the proposed Coldwater Meadows subdivision. There is a companion application to rezone the Coldwater Meadows subdivision Single Family Residential R-1-12.5. That application will address the merits of that application for the entire Coldwater Meadows subdivision.

The North Ogden General Plan map calls for the property to be annexed into North Ogden City. When addressing this application the Planning Commission should consider the following:

- Is the proposal consistent with the General Plan?
- Does the proposal meet the North Ogden Zoning ordinance standards?

Staff recommends that the City Council annex this property. The zoning designation should be considered as part of application ZMA 2014-02. The Planning Commission can find that the application is consistent with the North Ogden General Plan, i.e., the property is within the city annexation policy.

Mr. Scott summarized his staff memo.

Vice-Chairman Waite made a motion to forward a positive recommendation to the City Council regarding the Lyman C. and Lonnie C. Barker Annexation, located at approximately 850 E. 2100 N. Commissioner Knight seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Knight	yes
Commissioner Russell	yes
Commissioner Swanson	yes

The motion passed.

4. PUBLIC HEARING TO CONSIDER REZONING PROPERTY LOCATED APPROXIMATELY AT 850 E 2100 N FROM RESIDENTIAL RE-20 TO RESIDENTIAL R-1-12.5 FOR THE PURPOSE OF CONSTRUCTING A SUBDIVISION.

A staff memo from City Planner Scott stated When the Planning Commission is acting as a recommending body to the City Council, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes. The applicant is requesting that the property located at approximately 2100 North and 800 East be rezoned from Suburban Estate RE-20 and Weber County A-1 to Single Family Residential R-1-12.5. A segment of the property is being annexed to be included with the proposed Coldwater Meadows subdivision. The majority of the property was annexed in 1973 and is zoned RE-20. The applicant’s proposed subdivision is designed for lots ranging in size from 12,500 square feet to 22,000 square feet necessitating the rezone request.

The General Plan calls for “All development in the community should be built on land suitable for the intended use.” Additionally, “A variety of housing opportunities should be available to the citizens of the City. Quality residential development will be measured by design, maintenance, preservation of community resources, and open space.”

The Zoning and Land-Use Policy includes guidelines for how zoning changes should be considered:

General Guidelines

1. A definite edge should be established between types of uses to protect the integrity of each use.
Staff comment: The proposed subdivision provides for defined edges with surrounding properties.
2. Zoning should reflect the existing use of property to the largest extent possible, unless the area is in transition.
Staff comment: This area is in transition from agricultural to urban uses, primarily single family subdivisions with an adjoining church and assisted living facility.
3. Where possible, properties which face each other, across a local street, should be the same or similar zone. Collector and arterial roads may be sufficient buffers to warrant different zones.
Staff comment: This neighborhood has a variety of single family zones, i.e., R-1-8, R-1-10, and RE-20. 2100 North is shown as a collector street on the transportation plan map.
4. Zoning boundaries should not cut across individual lots or developments (i.e., placing the lot in two separate zones). Illogical boundaries should be redrawn to follow property or established geographical lines.
Staff comment: The petition will have all properties in the same zone.

Residential Guidelines

8. Avoid isolating neighborhoods.

Staff comment: The proposed subdivision is in an area of transition. The street layout provides for appropriate connections that will provide connectivity to other neighborhoods.

The General Plan map calls for this property to be developed as single family residential, low density. Both RE-20 and R-1-12.5 zones are allowed in this designation. The surrounding subdivisions have a variety of zone densities from R-1-8 to RE-20. Many of the adjoining properties are in alfalfa acreage.

The memo provided the following Planning Commission considerations:

- Is the proposal consistent with the General Plan?
- Does the proposal meet the North Ogden Zoning ordinance standards?
- How does the proposal relate to the Zoning and Land-Use Policy for evaluating zoning requests?
- Is the R-1-12.5 request appropriate for this neighborhood?

This is a policy decision; the General Plan allows for both the RE-20 zone classification and the R-1-12.5 classification for this property. If the Planning Commission determines that the R-1-12.5 zone is appropriate; the Commission can find that the application is consistent with the North Ogden General Plan and recommend approval to the City Council.

Mr. Scott summarized his staff memo. He used the aid of the zoning map to identify the location of the subject property and highlight the zoning of other properties surrounding the subject property.

Chairman Thomas stated there was no staff report for this item in the Planning Commission's packet. Ms. Cain stated that is correct, but one is available for the body to review if necessary.

Commissioner Swanson made a motion to open the public hearing at 6:56pm.

Commissioner Brown seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Knight	yes
Commissioner Russell	yes
Commissioner Swanson	yes

The motion passed.

Glenn Donnelson, 874 E. 2100 N., asked if this rezoning proposal will affect his property. Chairman Thomas answered no. He explained the Barker property to the north of his property will be rezoned, but Mr. Donnelson's property will maintain the RE-20 zoning designation. Mr. Donnelson then inquired as to the requirement for fencing or providing a buffer between the proposed subdivision and the creek that borders the property. Chairman Thomas noted the

City's building code will regulate the locations of the homes in the subdivision as well as buffers or required fencing.

Brent Call, 227 W. 3450 N., Pleasant View, stated he owns three acres of property directly south of 800 East street and he has plans in the near future to submit applications to the City for the use and development of that property. He stated that the staff report indicates the application is for the rezoning of 51.86 acres of property, which indicates that encompasses the entire subdivision area including future phases. He stated that when he purchased his property he liked the fact that it was bordered by alfalfa fields, though he recognized it would eventually be developed. He understands the property has every right to request rezoning of his property, but he has significant concerns regarding the application as well as the proposal for future development of the entire area. He stated that Mr. Scott's report includes general guidelines for this type of development and it states a "definite edge should be established between different types of uses to protect the integrity of each use". He noted the outline of the proposed area is certainly defined, but he is not sure that definition will protect the use of the surrounding area, some of which is zoned RE-20. He stated the staff report also indicates "zoning should reflect existing use of property to the largest extent possible unless the area is in transition". He agreed the area is definitely in transition, but the property has already been zoned RE-20 and he is concerned about the recommendation to rezone the property to accommodate smaller lot sizes in the proposed subdivision. He stated the staff report also indicates there are a number of different zones in the surrounding neighborhood and that may be correct depending on the definition of neighborhood, but the entire area surrounding the subject property is zoned RE-20; if this application is approved it will essentially create an island of R-1-12.5 zoning in the middle of RE-20 zoning. He stated he understands it is the prerogative of the Planning Commission to make that recommendation and it is up to the City Council to make a final determination as the proposal falls within the guidelines of the General Plan, but it is concerning to him. He added his additional concerns are related to the future development of the subject property; he understands the subdivision plans are not being considered tonight, but he wanted to address his concerns regarding the subdivision plans. He stated his biggest concern relates to parks and green space; the City's General Plan is very clear in the requirement for green space due to the desire of the residents of the City to have open space, parks, and other amenities. He referred to a statement in the implementation section of the General Plan relating to Parks and Recreation, which states the goal to "develop a system of green space throughout the City with incorporates and could be used as bike paths, walking trails, and general community access for non-motorized use". He stated there has been talk about creating some of those types of uses throughout the community and when he purchased his property it was his understanding the City's General Plan calls for a walking trail easement on the south side. He then noted Mr. Barker's proposed subdivision would include 117 lots, which represents an additional 400 to 500 citizens and the City's General Plan calls for eight to 10 acres of park space per 1,000 residents and that does not include open spaces or green spaces. He stated that he wondered if that needed park space has been taken into account when considering this application and the subsequent subdivision application. He concluded he wonders if the denser R-1-12.5 zone is appropriate for the area or if the current RE-20 zoning is more appropriate.

Commissioner Russell asked Mr. Call to identify the location of his property on the zoning map, which Mr. Call did.

Commissioner Knight asked how many residents the park near Green Acres Elementary School serves. Mr. Call stated he was unsure of the answer to that question. He noted the City has a parks and recreation plan and as part of the subdivision review process the Parks and Recreation Department will have an opportunity to make comment regarding the need for any new parks or trails to service the development.

Carolyn Parker, 787 E. 2100 N., stated she does not understand why the zoning needs to be changed and why the owner wants to cram so many houses onto the property. She indicated most of the lots in the area are larger and people purchased property in that area because they like the larger lots. She stated she knows the property owner wants to make as much money as he can on the development, but she does not understand the point of cramming that many houses on the property. She added it is necessary to consider all the children that will live in the subdivision and the impact that will have on surrounding schools and traffic; all of those things need to be considered.

Commissioner Brown stated this evening the Planning Commission is only considering a rezone application, not a subdivision design application. Ms. Parker stated she would prefer that the density allowed on the property be lower.

Mr. Scott then reviewed the draft subdivision design provided by the property owner and stated that it includes 115 lots and if the RE-20 zoning were to be retained by the property owner the number of lots allowed in the development would be approximately 15 less.

Richard Parker, 787 E. 2100 N., stated he bought his property years ago because of the size and the amount of open space surrounding it; over the years that open space has been depleted until it is almost gone. He stated traffic on the street has increased and he has seen “peeping toms” and other sorts of individuals in his neighborhoods. He stated the number of lots being proposed for the development is too high and he can only see one entrance/exit from the subdivision onto 2100 North, which is not very sensible. He stated he is completely opposed to the development.

Mike Norseth, 1546 N. 775 E., stated he lived in Harrisville for many years on 2.5 acres with a lot of open space surrounding him; he really loved it and one of the things Harrisville tried to do was create large lots, but one of the problems that city ran into was that half-acre lots are not the best sized lot for a subdivision because it is hard to take care of and most people that own lots of that size do not properly maintain them. He stated he understands population is growing and some people do not like higher densities, but he feels quarter-acre lot sizes are appropriate for the subject property.

John Hansen, 1165 W. 4000 N., Pleasant View, stated that he is familiar with the subject property and noted it was rezoned in 1974 to allow half-acre lots; the original owners requested a higher density for the property, but that was not granted. He stated the current owner, Mr. Barker, has maintained the property beautifully for all the neighboring property owners and that is much appreciated. He stated that in Pleasant View all lots used to be half-acre in size, but now it is not as easy for property owners to maintain lots of that size due to many different factors. He stated that the subdivision will be very nice and the design that has been provided tonight is simply for the first phase. He added the design was based on engineering recommendations. He

added that he does not feel the development will depreciate any property values in the area and he feels the requested zoning is appropriate for the property. He added he did not believe that future phases of the subdivision will be developed for some time because Mr. Barker desires to continue to farm the property. He reiterated his experience with half-acre lots is that they are not always properly maintained.

Lyman Barker, 2351 N. Fruitland Drive, stated that he truly does not want to develop this property at this time, but it is a matter of financial necessity for him.

Brent Call re-approached and stated that he supports Mr. Barker's right to develop his property and he has been a great member of the community. He stated he understands the comments that have been made about the fact that some owners of half-acre lots do not properly maintain them, but his concern is the density that is being proposed; if the Council is going to approve the smaller lots sizes they need to give much consideration to the layout of the subdivision and the incorporation of open and green spaces. He stated he understands increased density will create income for the City while increased green space will create expenses for the City and he understands that must be weighed, but it is also important to balance the needs of the community. He reiterated his biggest concern is the density that is being proposed and the number of lots that are included on the draft subdivision plat without any consideration for any kind of green space or open areas.

John Hansen re-approached and stated that each lot has a minimum of 100 feet of frontage, which makes for a very nice building footprint and will add to the value of the surrounding neighborhood.

Mr. Scott addressed the comment regarding access to the subdivision and noted that for this first phase there will just be one access point from 2100 North, but as future phases develop there will be several different access points.

Commissioner Brown made a motion to close the public hearing at 7:22pm. Commissioner Swanson seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Knight	yes
Commissioner Russell	yes
Commissioner Swanson	yes

The motion passed.

5. DISCUSSION AND/OR RECOMMENDATION TO CONSIDER REZONING PROPERTY LOCATED APPROXIMATELY AT 850 E 2100 N FROM RESIDENTIAL RE-20 TO RESIDENTIAL R-1-12.5 FOR THE PURPOSE OF CONSTRUCTING A SUBDIVISION.

Chairman Thomas reiterated that this item is consideration of the zoning of the property, not the subdivision development plans. He explained that throughout the subdivision process the landowner would be required to meet any City ordinances pertaining to things like open or green space, parks, or trails. He stated the property owner has provided a conceptual drawing for the potential first phase of the development, however the Planning Commission must only consider the zoning request with the understanding that any design that complies with the City's ordinances pertaining to the zoning would be permitted.

There was then a general discussion regarding the portion of the property that is subject to the current rezone request and Mr. Scott stated that the actual amount to be rezoned is approximately 20 acres rather than the 51 acres referenced earlier in the meeting. He noted that if the rezone ordinance moves forward it will contain an actual legal description for the portion of property to be rezoned. Chairman Thomas stated the Planning Commission needs to clearly understand whether the applicant intends to rezone a smaller portion of property or the entire parcel at this time. Mr. Scott indicated the remainder of the property is still part of Weber County as it has not yet been annexed into the City; therefore the City has no jurisdiction over the zoning of that property at this time.

Vice-Chairman Waite stated the Planning Commission must consider the development of the property going forward; once the rezone is approved, future development applications will essentially be a 'slam-dunk' based on the existing use and existing zoning. Chairman Thomas agreed that any proposed subdivision that meets the City's subdivision ordinances cannot be denied. Commissioner Knight noted that the Parks and Recreation Department will have the opportunity to comment on any proposed subdivision.

Chairman Thomas stated that comments have been made regarding the existing zoning of the surrounding properties and neighborhoods. He noted that on 2100 North there are many properties that are zoned RE-20, but there are entire subdivisions directly south of the subject property that have zoning designations of R-1-12.5 or R-1-8. He added that the density of the subdivisions located to the north and west of the subject property have much higher density; in fact, the lot sizes in the proposed development would be at least double the size of the lots in those existing subdivisions. He stated that he feels the requested zoning is a good fit for the neighborhood and he likes the fact that the density will not increase much over what would be permitted in the RE-20 zone.

Commissioner Brown asked Mr. Barker if he has plans for the subdivision to be a Planned Residential Unit Development (PRUD), to which Mr. Barker answered no. Commissioner Brown asked if there are plans to construct two story homes in the subdivision. Chairman Thomas reminded Commissioner Brown that the Planning Commission is only considering the zoning of the property this evening. Commissioner Brown stated she understands that, but indicated the style of homes to be constructed on the property would play into her decision

regarding the zoning. Chairman Thomas stated that should not be taken into consideration when considering the zoning application. Mr. Scott stated the maximum building height in both the RE-20 and R-1-12.5 zones is 35 feet.

Glenn Donnelson re-approached and stated that the properties that he owns contain big river willows and they infringe upon the air space over the creek and he asked if they would need to be removed. Chairman Thomas stated that is not for the Planning Commission to decide. Vice-Chairman Waite stated the trees will actually probably be a feature that will attract prospective buyers to the lots in that area.

Commissioner Swanson addressed Mr. Norseth's comments regarding green space and he asked if there are any plans to include a community park in the subdivision. Mr. Hansen stated he will work with Mr. Barker and take into consideration the City's desires relative to those types of amenities.

Commissioner Swanson made a motion to forward a positive recommendation to the City Council regarding the rezoning of property located at approximately 850 E. 2100 N. from Residential RE-20 to Residential R-1-12.5 for the purpose of constructing a subdivision. Commissioner Brown seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Knight	yes
Commissioner Russell	yes
Commissioner Swanson	yes

The motion passed.

Mr. Scott stated it is helpful when making this type of recommendation to the Council to provide findings supporting the motion. He stated that could be as simple as indicating that the motion is based on the findings or conditions listed in the staff report.

6. PUBLIC HEARING TO AMEND NORTH OGDEN CITY ZONING ORDINANCE TITLE 11, TO ADD REGULATIONS REGARDING BEES.

Mr. Scott indicated this item is not yet ready for Planning Commission consideration and he asked that it be continued to the next meeting.

Commissioner Knight made a motion to continue the public hearing to the May 7, 2014 Planning Commission meeting. Commissioner Russell seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Knight	yes
Commissioner Russell	yes
Commissioner Swanson	yes

The motion passed.

7. DISCUSSION AND/OR RECOMMENDATION TO AMEND NORTH OGDEN CITY ZONING ORDINANCE TITLE 11, TO ADD REGULATIONS REGARDING BEES.

This item was continued to the May 7, 2014 Planning Commission meeting.

8. DISCUSSION AND/OR ACTION TO APPROVE LEWIS PEAK SUBDIVISION PRUD LOT 13 BUILDING PLANS.

Mr. Scott indicated this item was added to the Planning Commission agenda because there were two phases of the project and Destination Homes, the builder of the first phase of the project, initially presented a basic concept plan for the style of building they anticipated building. He noted Destination Homes will not be the builder of the second phase and, instead, Sierra Homes will be the builder. Destination Homes has indicated that Sierra Homes does not have permission to use their home plans for the second phase. The Planning Commission is being asked to review and consider the elevations and illustrations provided by Sierra Homes and grant approval of this particular style of home in the second phase of the project. This would allow Sierra Homes to proceed with obtaining building permits for the project.

Chairman Thomas stated Mr. Norseth lives near the Lewis Peak Subdivision and he asked for his opinion regarding this issue. Mr. Norseth stated the current residents are very excited for the development and to be getting new neighbors; the neighborhood is wonderful to live in. He stated he believes this agenda item specifically describes lot 13, which is being built upon now as part of phase one of the development. He stated he would expect that when construction in phase two actually begins the Planning Commission will be considering this type of item again and he is hopeful Sierra Homes will provide more than one home style for the Planning Commission to consider; the homes in the first phase of the development are of varied styles and range in size from 2,600 to 3,800 square feet. He stated he would like to see the architectural integrity of the neighborhood continue. He stated he feels the house plan that has been provided this evening would fit in with the other homes in the subdivision. He noted one issue he is concerned with is that he feels Sierra Homes misinterpreted the covenants, conditions, and restrictions (CC&Rs) for the development regarding vinyl siding; the CC&Rs indicate that vinyl siding is allowed, but is limited to 25 percent of the homes constructed. He stated that the plan provided this evening calls for 25 percent of the home to be covered in vinyl siding; however, the

existing homes are constructed of siding or stucco and hardy board has been used rather than vinyl siding. He stated vinyl siding can be nice and is suitable for 25 percent of the homes in the subdivision. He stated he would ask the Planning Commission to require Sierra Homes to construct the home entirely of vinyl siding or stucco rather than a mixture of the two. Chairman Thomas stated the City is not responsible for enforcing CC&Rs, but he would likely have made the same interpretation that Sierra Homes made regarding building materials; he feels the document means that 25 percent of each home could be covered in siding rather than 25 percent of the homes in the development should be constructed entirely of siding. He noted the homeowners association (HOA) or other defined governing body is responsible to enforce the document. There was a general discussion regarding the language included in the CC&Rs document, after which Mr. Scott agreed that this agenda item only relates to lot 13 in the Lewis Peak PRUD. Mr. Norseth concluded that the HOA is not supportive of the building plan based on the proposal to use vinyl siding.

Commissioner Knight made a motion to approve the Lewis Peak Subdivision PRUD Lot 13 building plans. Commissioner Swanson seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Knight	yes
Commissioner Russell	yes
Commissioner Swanson	yes

The motion passed.

Chairman Thomas encouraged Mr. Norseth and other members of the HOA to work with Sierra Homes to address their concerns regarding building materials.

9. DISCUSSION TO CONSIDER THE DEFINITION AND REGULATION OF BANK AND FINANCIAL INSTITUTION USES.

Mr. Scott summarized his staff memo. He also briefly reviewed an ordinance regarding this type of land use and noted that the ordinance was borrowed from Ogden City; this ordinance was adopted after Ogden went through a two year process to develop regulations for certain types of lending institutions.

Chairman Thomas inquired as to the distance between the 7-Eleven convenience store and the City's southern border on Washington Boulevard. Mr. Scott stated the distance is approximately two miles. Chairman Thomas stated that if the staff recommendation regarding separation requirements were approved, it would be possible for up to 10 different payday lending institutions to locate on that stretch of Washington Boulevard, which is not what the City desires.

There was a general discussion regarding the purpose of separating uses such as title loan companies and sexually oriented businesses and Commissioner Knight indicated that he does not feel there will be a large volume of those types of businesses that will try to locate in North Ogden simply because the population will not support them. This led to a discussion regarding the predatory nature of title loan companies and Mr. Scott stated he feels disclosure regarding the nature of those businesses is important in order to protect the citizens of the community.

Commissioner Russell stated that these types of businesses are not necessarily representative of the community; rather, they bring people from other communities to the community in which they are located. He stated the businesses are simply looking for a place to locate and they will draw patrons from other areas. This led to a discussion regarding the demographics of the communities in which predatory lending businesses typically desire to locate.

Chairman Thomas asked if it would be problematic for the City to limit the number of predatory lending businesses to two. He noted Ogden City has instituted a limit of 15 in that city. Mr. Call stated that two may be somewhat unreasonable, even though it would be possible that the City is allowing free-market and competition.

Commissioner Brown stated she feels the City was blind-sided by the application for the first title loan company. Mr. Call noted that once the business made application to the City they had vested rights and the City could not have legally changed the ordinance to prevent them from locating in North Ogden. Commissioner Brown stated that she feels the City's ordinance must be more stringent to prevent other questionable businesses from locating in the City. Mr. Call stated the City may risk being the 'poster-child' for any lawsuit from a business that is being prevented from locating in the City.

There was a discussion regarding the staff recommendation regarding the required distance of separation between two title loan companies and Commissioner Knight suggested that the distance be increased to 2,500 feet rather than 1,000 feet. Mr. Call stated that may be a better way to approach the situation. He indicated that similar distance regulations could also be imposed on tobacco retail businesses and additional regulations apply to dictate that certain business types cannot locate within a specified distance from a school or other community land uses. This would limit the locations in which questionable businesses could locate.

Commissioner Swanson stated he is trying to understand the grounds on which a title loan company could sue the City in the event they were prevented from locating in North Ogden. Mr. Call stated that if only one title loan company were allowed in the City another title loan company could claim that the City is allowing a monopoly. He then referenced constitutional protections for businesses and stated sexually oriented businesses are constitutionally protected, but he is not sure the same is true for title loan or predatory lending companies. There was a discussion regarding the manner in which the City can prescribe, by ordinance, incompatible land uses and dictate distance requirements between those uses.

Mr. Scott concluded that staff is not asking the Planning Commission to make a decision regarding this issue tonight; he simply wanted to provide the body with regulations used by other entities and he will take into consideration the feedback the Planning Commission has provided

tonight to make additional recommendations. Commissioner Russell indicated he would like the wording in the ordinance regarding disclosures to be even stronger. Mr. Call stated lending institutions are regulated by the state and he would like to discuss this issue with the agency charged with that regulation regarding the language that can be included in the ordinance. Commissioner Swanson stated he would also like to understand if the state would be comfortable with the City imposing a greater distance requirement between businesses. Mr. Call stated he is comfortable with any distance requirement that has been used in other cities that have not been sued regarding their regulations. He stated an extremely high number could suggest that the City is trying to completely prevent a certain business from locating here. He stated that 1,000 feet is a fairly standard distance included in ordinances of this type. He stated it may be wiser for the City to provide incompatible uses in the ordinance and dictate that a title loan company cannot locate within a certain distance from those other established uses. He noted there is case law that the City can rely upon when implementing an ordinance that provides incompatible uses. Commissioner Knight stated the Planning Commission needs to be careful to leave their personal feelings about a certain type of business out of the decision making process so as not to create liability for the City in the future; the best thing would be to allow Mr. Scott and Mr. Call to work on an ordinance for the Planning Commission to consider. Chairman Thomas agreed. There was a general discussion regarding the section of the ordinance dealing with color schemes and Mr. Call noted that the City can legally impose color schemes on this type of business because the same is done for all commercial uses in the City. Commissioner Swanson stated he would like for staff to draft an ordinance that ultimately provides for the health, safety, and welfare and promotes the prosperity of North Ogden residents. Mr. Scott stated he will take that feedback into consideration and bring a recommendation back to the Planning Commission soon.

10. PUBLIC COMMENTS.

There were no public comments.

11. PLANNING COMMISSION/STAFF COMMENTS.

Mr. Scott reported the Planning Commission has been invited to participate in a joint meeting with the City Council on May 8, 2014; the subject of the meeting will be the process to update the General Plan. He also reported that the City made application to the Wasatch Front Regional Council (WFRC) for planning grant funds and a determination has not yet been made, but is forthcoming. He then provided the Planning Commission with an update regarding the progress of the Title Max project.

Commissioner Russell asked for an update on the Café Rio project. Mr. Scott stated they are still dealing with the relocation of a water main in the vicinity of the building in which the business would be located and negotiations regarding that component of the project are ongoing; he expects the issue to be resolved within the next week.

Commissioner Brown stated that over the weekend she noticed a few things that were displeasing to her; first, the movie theater parking lot was used as a used car lot and, second, there is a need for a trash container at the bus stop near 1700 North and Washington Boulevard.

There was a discussion regarding who is responsible to collect trash at Utah Transit Authority (UTA) bus stops and Mr. Scott stated staff will follow-up on those concerns.

12. ADJOURNMENT.

Vice-Chairman Waite made a motion to adjourn the meeting. Commissioner Swanson seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Brown	yes
Commissioner Knight	yes
Commissioner Russell	yes
Commissioner Swanson	yes

The motion passed.

The meeting adjourned at 8:21 pm.

Planning Commission Chair

Stacie Cain,
Community Dev. Coord./Deputy City Recorder

Date approved